

1982 WL 189243 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 7, 1982

*1 Mr. James R. Epps
City Attorney
City of Lake City
Post Office Box 398
Lake City, South Carolina 29560

Dear Mr. Epps:

Your letter has been referred to me for reply. You have inquired if '... the appropriation of funds by a municipality to the Civil Air Patrol violates constitutional limitations on municipalities in the contracting of debts or the spending of public funds'.

Article X of the South Carolina Constitution clearly indicates that the State and its political subdivisions are prohibited from expending public funds for other than public purposes.

The Civil Air Patrol has been established by the United States Congress as a volunteer civilian auxiliary of the Air Force. [10 U.S.C. § 9441\(a\)](#). In the legislation creating the Civil Air Patrol the Congress stated that the purpose and object of the Patrol was (a) To provide an organization to encourage and aid American citizens in the contribution of their efforts, services, and resources in the development of aviation, and to encourage and develop by example the voluntary contribution of private citizens to the public welfare;

(b) To provide aviation education and training especially to its senior and cadet members; to encourage and foster civil aviation in local communities and to provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies. 86 U.S.C. § 202.

Cases that have been brought regarding the Civil Air Patrol have regarded the Patrol as a 'Part-time federal agency'. [Kiker v. Estep](#), 444 F.Supp. 563, 565 (N.D. Georgia 1978) cf. [Pear v. U.S.](#), 230 F.2d 243 (10th Cir. 1956). In the legislative history for the 1954 amendments to the Civil Air Patrol legislation, it is stated that the Civil Air Patrol is organized in every state, territory and the District of Columbia; that it conducts search and rescue activities as funded by the United States Government; and, in 1954 cost the Government approximately 4.8 million dollars to fund. 1954 U.S. Code and Administrative News 2270. See also, 96 U.S. Code Congressional and Administrative News, 94 STAT. 1077, 1121.

The Patrol has been given by statute the general powers of a corporation, including the power 'to accept gifts, legacies, and devises which will further the corporation purposes.' [36 U.S.C. 205\(c\)](#). Therefore, although it has been set up to receive federal funds, it may receive other funds as well.

In the appropriations bill for the State of South Carolina the Civil Air Patrol, since at least 1977, has received funding from the State. Additionally I have been informed by John Hamilton, Director of the South Carolina Aeronautics Commission, that several counties have provided funds for the Patrol. In light of these State and county appropriations, it would appear that there has already been a finding that this expenditure would be a valid expenditure of public funds.

It is my understanding that some counties request an itemized statement of how the county funds are actually utilized. It may be that if the City does decide to appropriate funds to the Patrol they may want to establish guidelines for its use and request documentation of its use as the funds so appropriated would be public funds.

Sincerely,

*2 Treva G. Ashworth
Senior Assistant Attorney General

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